

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

MICHAEL JOHN FRICCERO and GINA
PERU FRICCERO,

Plaintiffs,

v.

ERIC WILLIAM FRICCERO *and in rem*
\$142,100,

Defendant.

Case No. 3:14-cv-00112-SLG

ORDER DENYING MOTION FOR ATTACHMENT OF FUNDS

On July 3, 2014, the Court held a hearing on Plaintiffs' Motion for Attachment of Funds (Docket 5) pursuant to Federal Rule of Civil Procedure 64, AS 09.40.010, and Alaska Rule of Civil Procedure 89.

At the hearing, for the reasons discussed on record, the Court found that Plaintiffs failed "to establish by a preponderance of the evidence the probable validity of [their] claim for relief in the action and the absence of any reasonable probability that a successful defense can be asserted by [Defendant]."¹ Specifically, as was further explained on record, on May 12, 2008, Michael John Friccero attested under penalty of perjury to the Commercial Fisheries Entry Commission that the limited entry permit from which the proceeds on deposit with the Washington Court were generated was transferred as a gift from Michael Friccero to Eric William Friccero without any terms or conditions and without any agreement concerning future transfers of the permit. The side agreement between Gina Friccero and Eric Friccero, dated May 7, 2008, which

¹ See Alaska R. Civ. P. 89(d).

provided in relevant part that “upon the need for [Plaintiffs] to sell the permit, [Defendant] will agree to either buy it at fair market value, or to sign all documents allowing them to transfer the permit,” would appear to be in direct violation of Alaska law. See generally AS 16.43.150(g); *Pavone v. Pavone*, 860 P.2d 1228 (Alaska 1993). Therefore, Defendant has demonstrated a reasonable probability of prevailing on an illegality defense. Accordingly, the Court ordered as follows:

1. The parties’ Stipulation at Docket 10 is GRANTED.
2. Plaintiffs’ Motion for Attachment of Funds Held by Washington Court at Docket 5 is DENIED.

DATED this 7th day of July, 2014, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE